

BEFORE THE

ORIGINAL

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

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GN Docket No. 96-113

Section 257 Proceeding to Identify and Eliminate
Market Entry Barriers for Small Businesses

)

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To: The Commission

DOCKET FILE COPY ORIGINAL

COMMENTS OF COLUMBIA COMMUNICATIONS CORPORATION ON NOTICE OF INQUIRY

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SUMMARY

Pursuant to Section 257 of the Telecommunications Act of 1996, the Commission has sought comment to assist it in identifying and eliminating market entry barriers that hinder or prevent small businesses from owning and operating telecommunications facilities and services. Encompassed within this inquiry is a request for guidance on how the FCC can reform its own processes to remove obstacles to small business participation created by its own rules and policies.

Columbia believes that the Commission's recent decision to require all geostationary fixed-satellite service applicants to meet an arbitrary one-stage financial standard is a significant impediment to small businesses and entrepreneurial companies seeking a foothold in the satellite industry. The impact of this requirement is particularly unfortunate with respect to existing small business satellite operators, such as Columbia, which could be prevented from extending and expanding services that they are currently offering simply because they do not have sufficient internal assets to be granted an unconditional license. For these reasons, the single-stage financial test should be eliminated, or at least limited, as part of this proceeding.

Fundamentally, the one-stage standard is inequitable because it allows large corporations to obtain satellite licenses without identifying specific funds that they will use to build their proposed systems, while at the same time it demands from small companies — those lacking substantial internal financial resources — firm, dollar-specific commitments of funding from external sources. The Commission's unquestioning acceptance of large corporations' bare demonstration of internal assets sufficient to cover the cost of constructing, launching and operating a new satellite establishes a false premise that such internal resources will actually be relied upon to bring the proposal to fruition. In fact, virtually all satellite space segment facilities are built using external debt and/or equity financing, regardless of the size of the applicant.

The Commission's current approach thus creates an unwarranted handicap for small businesses seeking outside financial commitments in that they are compelled to approach potential investors without any color of authority to construct their systems, while ***large, asset-rich companies are able to make the same contacts with unconditioned FCC licenses in hand.*** The ability of big companies to obtain a license simply by producing a balance sheet creates the presumption in the financial community that serious satellite proponents should already have a license at the time they seek financing.

Significantly, this approach cannot be justified by the Commission's stated reason for imposing a strict single-stage financial showing — *i.e.*, preventing licensees from “warehousing” orbital locations for future exploitation. As a practical matter, any entity, regardless of its financial wherewithal, can allow assigned orbital resources to go unused. Accordingly, there is no correlation between enforcing the current single-stage financial standard and ensuring that the licensees approved under that standard will actually implement their systems. Several large companies granted unconditional authorizations under the one-stage standard to build domestic fixed-satellites ultimately failed to construct their systems.

Conversely, three international “separate systems,” including Columbia, have successfully obtained financing and commenced service under the Commission's more flexible two-stage standard, which formerly applied to such applicants. ***The entry of these new entrepreneurial competitors into the satellite market has reduced prices substantially for users of satellite capacity and is one of the Commission's most significant pro-competitive successes during the past decade.*** The Commission's complete abandonment of its two-stage approach in the face of such success is inexplicable, and should be reversed.

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To: The Commission

**COMMENTS OF COLUMBIA COMMUNICATIONS
CORPORATION ON NOTICE OF INQUIRY**

Columbia Communications Corporation ("Columbia"), by counsel and pursuant to Sections 1.415 and 1.430 of the Commission's Rules, hereby comments on the Commission's Notice of Inquiry in the above-captioned proceeding.^{1/} The purpose of this proceeding is to implement Section 257 of the Telecommunications Act of 1996 ("Section 257"), which requires the Commission to identify and eliminate "market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services."^{2/} The NOI requests, *inter alia*, information on obstacles to raising capital and

^{1/} Section 257 Proceeding to Identify and Eliminate Market Entry Barriers for Small Businesses, GN Docket No. 96-113, FCC 96-216, slip op. (released May 21, 1996) ("NOI").

^{2/} NOI, ¶ 1.

expansion in the telecommunications field faced by small businesses.^{3/} The NOI also asks for suggested changes to FCC rules to eliminate such barriers.^{4/}

There is no question that access to adequate capital often poses a serious hurdle for expansion by small businesses. As recognized in Section 257, government agencies' own programs and policies should not unnecessarily exacerbate this hurdle. It is difficult enough for small companies to establish and sustain themselves, particularly in a capital intensive industry such as the satellite field, without government-imposed handicaps. In these comments, Columbia explains how the Commission's recently imposed one-step financial qualification standard for licensing satellites in the international geostationary fixed-satellite service ("FSS") unnecessarily and severely hinders small businesses seeking access to critical external financing for such projects. Indeed, the one-step standard jeopardizes even established small business satellite operators such as Columbia. Accordingly, Columbia proposes that the Commission return to its successful two-step licensing process for the international geostationary FSS. By adopting Columbia's proposal, the Commission would conform to Section 257's directive and serve the public interest by preserving the opportunity for small businesses to compete in the international geostationary FSS marketplace.^{5/}

^{3/} Id. at ¶ 25.

^{4/} Id. at ¶ 41.

^{5/} The views that Columbia expresses herein have largely been supported, in other fora, by the Small Business Administration and members of Congress. *See* Reply of the Chief Counsel for Advocacy of the United States Small Business Administration to Oppositions to Petitions for Reconsideration, IB Docket No. 95-41 ("SBA" Comments") (attached (continued...))

I. Background On Columbia.

In the context of a recent Regulatory Flexibility Act analysis, the Commission indicated that a small business in the satellite communications field is independently owned and operated, not dominant in its field, and comprised of fewer than 1,500 employees.^{6/} Columbia satisfies these criteria. Columbia is a closely held corporation with offices in Bethesda, Maryland and Honolulu, Hawaii. It is not operated or controlled by another company, and has far fewer than 1,500 employees. Columbia is not a start-up company. It is a fully FCC-licensed, operating provider of international fixed satellite services. More specifically, the company provides international video, voice, and data communications capability to businesses via three NASA Tracking and Data Relay Satellite System ("TDRSS") satellites under a unique revenue sharing agreement with NASA. It is one of only three operators of U.S.-based international "separate satellite systems."^{7/} Despite INTELSAT's treaty-based competitive advantages and broad market share, Columbia has carved a niche for itself in the international FSS arena through innovative and highly competitive service offerings that primarily focus on transoceanic communications in the Atlantic and Pacific Regions.

^{5/}(...continued)

hereto); Letter from Congressman John Conyers, Jr. to Hon. Reed E. Hundt, dated August 21, 1996 ("Conyers Letter") (attached hereto).

^{6/} See Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, ET Docket No. 93-62, FCC 96-326, slip op. at 65, 70-71 (released August 1, 1996).

^{7/} "Separate" systems are so named because they are privately owned geostationary FSS systems which are separate from the INTELSAT System. INTELSAT is an intergovernmental organization and the dominant service provider in the geostationary international FSS market.

To maintain its customers, Columbia must be able to meet their ever-increasing international satellite communications needs. In the short term, Columbia has met this challenge by obtaining additional capacity on NASA's TDRSS satellites. However, the availability of such capacity is limited. Accordingly, Columbia's plans to construct, launch, and operate its own satellites are essential to its long-term viability. Such plans are also essential to Columbia's immediate well-being, because its customers require assurance that Columbia will continue to be able to meet their long-term needs.

Columbia is well into the development of two new satellites, and has already filed the required license applications with the FCC.^{8/} The approximate cost of construction, launch, and one year of operation of these satellites is \$500 million.^{9/} As is customary in the satellite industry, Columbia expects to obtain external financing for these satellites primarily through loans from, and the sale of stock through, banks, underwriters, and other traditional sources of capital. As described below however, Columbia's ability to obtain the financing for its proposed satellites is severely jeopardized by the Commission's recent policy reversal imposing a one-stage financial qualification standard as part of the licensing process.

^{8/} See File Nos. 44-SAT-P/LA-96 and 3-SAT-P/LA-96.

^{9/} Id.

II. Background On The Fixed-Satellite Financial Qualification Standard.

The Commission requires each applicant for an FSS license to demonstrate the ability, based on current assets and operating income, to meet the costs of constructing and launching its proposed system and operating it for one year.^{10/} Prior to 1985, the Commission did not stringently apply this standard. In 1985, however, based on experiences with a few domestic FSS applicants, the Commission determined that all future domestic applicants would be held to the strict terms of this financial standard when they filed their applications.^{11/} At about the same time, the Commission determined that applicants seeking to provide international service would be permitted to make this financial showing in two stages.^{12/}

The Commission adopted a two-stage financial showing for international applicants because they face uncertainties that are not faced by domestic applicants. In particular, the Commission noted that international applicants have to complete consultations with INTELSAT and obtain authorizations from foreign countries prior to commencing service.^{13/} These uncertainties impede international applicants' ability to raise sufficient capital to meet a one-stage financial qualification standard. Neither uncertainty can be overcome without some form of authority from the FCC. Accordingly, the Commission decided that it would grant a

^{10/} 47 C.F.R. § 25.114(c)(18).

^{11/} See Licensing Space Stations in the Domestic Fixed-Satellite Service, 58 R.R. 2d 1267 (1985).

^{12/} See Establishment of Satellite Systems Providing International Communications, 101 F.C.C. 2d 1046, 1164-65 (1985).

^{13/} Id.

preliminary license for an international satellite based upon the applicant's compliance with applicable technical and legal requirements and identification of estimated system costs, operating expenses, and *potential* sources of financing. The grant of this preliminary license would demonstrate the applicant's non-financial qualifications and provide the color of authority necessary to undertake and complete INTELSAT consultations and obtain foreign country authorizations. This, in turn, would greatly facilitate the applicant's ability to obtain financing to meet the Commission's financial requirement. In stage two, an unconditional license would be granted upon a showing by the applicant that it had adequate assets to meet the identified costs of satellites construction, launch and operation, or had secured firm commitments for external financing of these costs.

The Commission's two-stage financial qualification standard is largely responsible for one of the largest pro-competitive successes for the Commission's satellite policies over the past ten years — the successful development and growth of international fixed-satellite separate systems.^{14/}

In January, 1996, the Commission eliminated most regulatory distinctions between FCC licenses for domestic and international geostationary FSS.^{15/} As part of the report and order — and despite the successful history of the two-stage financial standard for international separate

^{14/} Cf. SBA Comments at 2, 4; Conyers Letter at 1-2.

^{15/} See Amendment of the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems, IB Docket No. 95-41, FCC 96-14, slip op. (released January 22, 1996) ("*DISCO P*").

systems — the Commission adopted a one-step financial qualification standard for all fixed-satellite applications.^{16/}

III. The One-Step Financial Qualification Is A Major Barrier To External Financing For Small Business International Fixed-Satellite Projects.

Small entrepreneurial companies such as Columbia typically require external financing in order to finance the construction and launch of a satellite. To secure external financial commitments, these businesses must be able to complete as many of the domestic and international regulatory steps as possible, thereby providing a record that portends successful authorization and operation of the proposed satellite capacity. Consequently, the absence of at least a preliminary FCC authorization creates a severe handicap when seeking external financing.^{17/} Moreover, as before, at least a conditional FCC license is required to proceed with various other regulatory steps required for providing international service over a new fixed satellite. These steps include consultation with INTELSAT, coordination with other orbit/spectrum users under International Telecommunication Union ("ITU") regulations, and

^{16/} The seriously deficient Regulatory Flexibility Analysis accompanying the *DISCO I* order demonstrates that the commission did not adequately consider how its order would affect small businesses. See SBA Comments at 8-9. Columbia has filed a Petition for Reconsideration of the *DISCO I* decision to the extent that it eliminated the two-stage financial showing for international fixed satellites. See Petition for Reconsideration of Columbia Communications Corporation, IB Docket No. 95-41 (April 11, 1996).

^{17/} In fact, it is standard practice among investors in international fixed satellites not to commit financing until at least a preliminary FCC authorization has been issued for the proposed satellite. Cf. Renee Saunders, "Investors Watch Start-Ups," Space News, July 29-August 4, 1996 at 1, 19 ("it has become critical for a [satellite] company to have an FCC license in hand when seeking financing").

approvals from foreign countries to offer actual service within their borders. In short, under the one-step financial showing, smaller companies requiring external financing could be effectively barred from the international fixed-satellite marketplace through a Catch-22 situation: unable to secure financing without first obtaining regulatory approval and unable to secure regulatory approval without first obtaining financing.

At the same time that it eliminated the two-stage approach, the Commission announced a new policy that would permit all fixed-satellite licensees to offer both domestic and international service.^{18/} The Commission opined that this abandonment of the distinction between domestic and international satellite authorization would permit "all applicants . . . to obtain financial commitments based on the justified expectation of revenues from the provision of domestic service."^{19/} Unfortunately, the Commission's view is unrealistic. The orbital locations most suitable for trans-oceanic international services offer either only limited coverage of the continental United States or severely constrained look angles. Based on this reality, to be profitable, applicants for most orbital locations for international satellite service must rely principally on the revenue to be generated from international service offerings; the very services for which their satellites will have been optimized. The revenue from limited domestic offerings alone would not be sufficient and thus would not attract adequate financial backing.

In sum, the application of the one-step financial standard to small businesses will render the international fixed satellite market accessible only to the largest U.S. corporations and

^{18/} See *DISCO I*, IB Docket No. 95-41, FCC 96-14, slip op.

^{19/} *DISCO I*, IB Docket No. 95-41, FCC 96-14 at ¶ 36.

foreign companies not hampered by the Commission's overly stringent financial qualification requirement.

IV. A One-Step Approach Is Unnecessary.

The Commission's only stated reason for eliminating the two-stage financial qualification process this past Spring was its "repeated experience" that applicants without ready access to financing have been awarded preliminary licenses for particular orbital locations and then failed to obtain adequate capital, thus precluding other candidates from using the orbital location reserved by that license.^{20/} While the Commission is correct to be concerned that it not establish a system that can be abused by speculators intent on "warehousing" orbital locations, the reality of the Commission's experience with the two-stage standard is that it has been highly successful, resulting in the establishment of three U.S.-based operating systems that provide much-needed competitive international satellite services to a variety of users.

Notably, the Commission's *DISCO I* Order made no reference to any instance where a conditionally authorized international separate system operator failed to make its final financial showing and commence operations. Instead, all of the cited instances where applicants ultimately failed to construct their systems — and authorizations were declared null and void — were from the domestic geostationary FSS or other services.^{21/} The undesirable practice of

^{20/} *DISCO I*, IB Docket No. 95-41, FCC 96-14 at ¶ 40.

^{21/} See *DISCO I*, IB Docket 95-41, FCC 96-14, slip op. at n.57. See also SBA Comments at 3-4 (further explaining why the cases cited in the *DISCO I* Order do not support the elimination of the two-stage approach).

spectrum warehousing simply has not been a problem in the area of U.S.-based international separate systems, and three companies (including Columbia) have navigated through difficult domestic and international regulatory processes to become successful U.S.-based satellite operators. Nowhere did the Commission's *DISCO I* decision acknowledge this fact, let alone take it into account in formulating its revised policy.

Conversely, *the single-step domestic satellite standard has not been consistently successful* in identifying applicants that ultimately construct, launch and operate satellite systems. As a practical matter, any entity, regardless of its financial wherewithal, can allow assigned orbital resources to go unused. Indeed, the first processing group in which the Commission strictly applied its single-stage financial standard included several large U.S. corporations that were awarded orbital locations for domestic service but which never implemented their proposals. Western Union Telegraph Company ("Western Union"), to cite one prominent example, was among the applicants found financially qualified in 1985 based solely on its current assets^{22/} — despite the fact that it was on the verge of bankruptcy at the time. Predictably, Westar VIII and XI, which Western Union was authorized to build in that round, were never built — and the

^{22/} See Western Union Telegraph Co., 103 F.C.C. 2d 892, 895 (1985) (finding the applicant qualified to construct two of the four satellites it requested).

company ultimately transferred its prior authorizations to Hughes in 1988.^{23/} Even Ford Motor Company, which had no such financial difficulties, failed to build out its subsidiary's license.^{24/}

Fundamentally, the single-step financial standard is inequitable because it contains a loophole for an entire class of applicants — large corporations — which may simply rely on undifferentiated internal assets to support their applications instead of showing that they have firmly committed financing. After receiving a license on the basis of uncommitted internal assets, these corporations typically obtain substantial external financing to implement their licensed systems. The Commission's unquestioning acceptance of large corporations' reliance on internal assets therefore establishes a false premise that large businesses will use internal assets to finance their systems. This, in turn, creates a legal fiction that a small business that informs the Commission at the outset of its plans to use external financing is somehow less qualified than a large corporation that waits until its license has been granted before pursuing external financing.^{25/} Actually, the absence of extensive internal assets can be a strong indicator that the applicant is filing in good faith, as only large corporations could afford the expense involved in filing an application for the sole purpose of warehousing spectrum that might otherwise be licensed to competitors.

^{23/} See Western Union Corporation, Assignor, and Hughes Communications Galaxy, Inc., Assignee, 3 FCC Rcd 6792 (Com. Car. Bur. 1988).

^{24/} See American Tel. & Tel. Co. and Ford Aerospace Satellite Services Corp., 2 FCC Rcd 4431, 4435 (1987). Federal Express also failed to build out its domestic FSS System.

^{25/} Accord, SBA Comments at 5-7. See also Conyers Letter at 1.

In sum, there is no reasonable basis to believe that the imposition of a one-stage financial standard will significantly reduce the already low likelihood of spectrum warehousing by small business international separate systems. Indeed, there are far more effective methods to prevent spectrum warehousing. For example, the Commission can rely on build-out milestones.^{26/} Accordingly, the true effect of the one-stage standard is to unnecessarily impede small businesses, while unfairly licensing larger companies that also depend on external financing.^{27/}

V. The Commission Should Reinstate The Two-Stage Approach, Or At Least Grant Waivers To Small Business Operators.

Given Congress' recent directive to the Commission to identify and eliminate market entry barriers that adversely affect the ability of small businesses to compete in the telecommunications marketplace, the Commission must seriously reevaluate the acceptability of its current one-stage financial standard.^{28/} Removing the barrier posed by the one-stage showing would not only heed the sound directive of Section 257 but would increase competition in the satellite service industry. On the other hand, maintaining this barrier severely jeopardizes existing, licensed small business competitors such as Columbia. The result is that the Commission may actually reduce competition. At the very least, the Commission should waive the one-stage financial standard in situations, such as Columbia's, where a small business with a successful track record in the provision of satellite service seeks to expand its existing satellite system. In these

^{26/} Accord, SBA Comments at 4-5.

^{27/} Accord, Conyers Letter.

^{28/} Accord, Conyers Letter at 2.

situations, the most significant impediment to a very high likelihood of build-out is the Commission's unnecessary withholding of a conditional license.

In addition, the two-stage approach would enable U.S. companies to participate at the earliest possible date in the ITU process for assigning international "rights" to orbital slots. Conversely, delays caused by the one-stage approach provide foreign carriers that are not subject to FCC licensing with an advantage in obtaining these rights. This prejudices U.S. interests generally, and not just the interests of the particular U.S. applicant.

CONCLUSION

As explained above, the elimination of the two-stage financial qualification standard from the international fixed satellite license process unfairly and needlessly discriminates against small businesses relying on external financing to provide international fixed satellite service. Indeed, the absence of the two-stage standard threatens the long-term viability of established small business satellite service providers such as Columbia. As a result, the Commission has unnecessarily and substantially impeded competition in the international

geostationary FSS marketplace, contrary to its fundamental pro-competition objectives and the directive of Section 257 to eliminate barriers to small telecommunications businesses. The Commission should therefore reinstate the two-stage approach for international fixed satellite applicants as part of this proceeding.

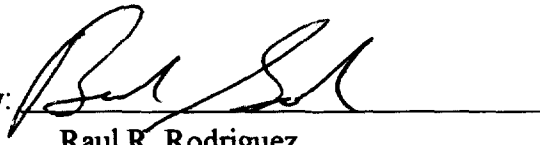
Respectfully submitted,

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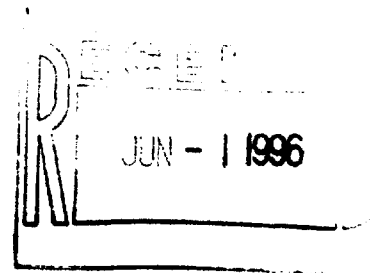
September 27, 1996

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WASHINGTON, D.C. 20416



BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Amendment of the Commission's) IB Docket No. 95-41
Regulatory Policies Governing)
Domestic Fixed Satellites and)
Separate International Satellite)
Systems)

To: The Commission

REPLY OF THE CHIEF COUNSEL FOR ADVOCACY
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TO OPPOSITIONS TO PETITIONS FOR RECONSIDERATION

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REPLY OF THE CHIEF COUNSEL FOR ADVOCACY
OF THE UNITED STATES SMALL BUSINESS ADMINISTRATION
TO OPPOSITIONS TO PETITIONS FOR RECONSIDERATION

The Office of Advocacy of the United States Small Business Administration replies to the oppositions of Hughes Communications Galaxy, Inc. ("Hughes") and GE American Communications, Inc. ("GE Americom") to the petitions for reconsideration filed by Columbia Communications Corporation ("Columbia"), Orion Network Systems, Inc. ("Orion"), and PanAmSat Corporation ("PanAmSat") of the Commission's Report and Order in the above-captioned proceeding, released January 22, 1996, in which the Commission amended its regulations governing domestic fixed satellites and separate international satellite systems ("Report and Order").¹ The Office of Advocacy supports the petitions to reconsider and

¹Amendment of Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems, Report and Order, IB Docket No. 95-41, FCC 96-14, (released January 22, 1996) ("Report and Order").

disputes the oppositions filed against them.

**I. THE COMMISSION'S TWO STAGE FINANCIAL QUALIFICATION PROCESS
SHOULD BE MAINTAINED**

The Office of Advocacy is principally concerned with the Report and Order's proposed elimination of the Commission's two-stage financial qualification process.² The Office of Advocacy believes that the Commission should not eliminate a process that has played such a pivotal role in opening the satellite industry to smaller competitors over the past decade.³ Since the Commission's establishment of a two-stage financial qualification process for separate satellite systems in 1986, a number of smaller satellite operators have successfully entered the satellite services market. These fledgling new entrants have grown into viable businesses in a market in which many assumed was all but impossible for small competitors to compete effectively.

²Id. at para. 35-43.

³The Office of Advocacy has consistently supported more reasonable financial qualification standards for smaller satellite operators. See, e.g. Letter from Frank S. Swain, Chief Counsel to William J. Tricarico, dated June 27, 1985 (referencing FCC Docket No. 85-135) and Letter from Jere W. Glover, Chief Counsel to Chairman Reed E. Hundt dated 4/24/96 (regarding an application for a Big LEO license).

II. ELIMINATING THE TWO STAGE FINANCIAL QUALIFICATION PROCESS IS UNNECESSARY TO AVOID WAREHOUSING

Chief among the rationales the Report and Order offers for eliminating the two-stage financial qualification process is the purported threat of "warehousing" or hoarding of satellite licenses without building the required satellite systems. Its concern is that applicants with inadequate financial backing could be awarded licenses and fail to build them out, thus precluding financially qualified applicants from using the orbital spectrum for years. To substantiate the concern of warehousing, the Commission and opposing parties cite, collectively, six cases in which the licensee failed to construct, launch and operate a satellite system.⁴ The majority of these cases, however, date to the mid-1980's and involve applications that predated the financial qualification showing currently at issue. Moreover, the licenses in question were issued for domestic service and thus in no case would they have implicated the two-stage process at issue here. These were some of the cases that, in part, gave rise to the Commission's 1985 rules on domestic fixed and separate international satellite systems.⁵ Of course, such examples cannot be used to assert the success or failure of the two-stage showing at issue here. Other

⁴Report and Order at para. 40, footnote 57; Hughes Opposition at footnote 11.

⁵See Licensing Space Stations in the Domestic Fixed-Satellite Service, Report and Order, 58 R.R. 2d 1267 (1985) and Establishment of Satellite Systems Providing International Communications, Report and Order, 101 F.C.C. 2d 1046 (1985).

examples cited as failures of applicants approved under the two-stage process to build their systems involve other services (such as Ka band) where, again, the viability of a two-stage showing was not in question.

It is not just smaller, self-funded system operators that in some cases have struggled to build their systems. There are also cases of larger, self-funded system operators that have failed to build their systems.⁶ It is clear that these are isolated cases and not indicative of a failure of the Commission's financial qualification rules generally, nor of a need to guard against some ill-defined threat of warehousing.

These few cases fail to establish a record of warehousing that would justify the abandonment by the Commission of such a successful and important policy as the two stage financial qualification process. In fact, the reverse is true. The two-stage process is largely responsible for one of the biggest pro-competitive successes of the Commission's satellite policies in the past ten years -- the development of successful separate international satellite systems -- and should therefore be maintained.

Moreover, if warehousing is the chief problem the Commission is attempting to correct by eliminating the two-stage process, there are clearly more direct and

⁶Columbia Petition at p.13, footnote 21, referencing the failure of Ford Aerospace and Western Union to build their systems in the late 1980s.